

Introduced by Senator Nielsen

February 18, 2016

An act to add Section 10340.5 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1268, as introduced, Nielsen. Department of Forestry and Fire Protection: competitive bidding: emergency equipment rental.

Existing law generally requires state agencies to obtain at least 3 competitive bids for each contract. Under existing law, this requirement does not apply under certain circumstances, including, among others, in cases of emergency where a contract is necessary for the immediate preservation of the public health, welfare, or safety, or protection of state property.

This bill would establish specific procedures to govern bidding for emergency equipment rental agreements entered into by the Department of Forestry and Fire Protection (CalFire) and private vendors and the subsequent hiring of vendors. The bill would require that such an agreement be subject to competitive bidding, and awarded as prescribed. The bill would require that the Department of General Services conduct the competitive bidding process on behalf of CalFire, and ensure compliance with the Small Business Procurement and Contract Act and the California Disabled Veteran Business Enterprise Program for all prospective vendors claiming a preference. The bill would require CalFire to develop and implement an employee code of conduct.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 10340.5 is added to the Public Contract Code, to read:

10340.5. (a) As used in this section:

(1) “CalFire” means the Department of Forestry and Fire Protection.

(2) “Emergency equipment rental agreement” or “EERA” means a preincident equipment rental agreement entered into by CalFire and a private vendor that becomes binding after dispatch.

(b) Notwithstanding paragraph (1) of subdivision (b) of Section 10340, an emergency equipment rental agreement is subject to the requirement of subdivision (a) of Section 10340 to secure at least three competitive bids or proposals for a contract.

(c) A prospective vendor for an EERA shall offer rental rates and terms to provide his or her own equipment to the state in the event of a fire or other emergency.

(d) The term of an EERA entered into on or after January 1, 2017, shall be for a 3-year period that commences on May 1. A vendor shall update his or her rental rates by May 1 of each year during the term of the agreement.

(e) Because the equipment needs of the state and the availability of vendor-offered equipment during an emergency incident cannot be determined in advance, there shall be no guarantee by the state of any actual rental of vendor-offered equipment, nor shall any vendor be required to furnish offered equipment under the EERA.

(f) CalFire employees, their family members, or any associate thereof participating in any financial venture with CalFire employees shall not participate in emergency equipment rental procurement.

(g) The department shall conduct the competitive bidding process on behalf of CalFire. The department shall ensure compliance with the Small Business Procurement and Contract Act (Chapter 6.5 (commencing with Section 14835) of Part 5.5 of Division 3 of Title 2 of the Government Code) and the California Disabled Veteran Business Enterprise Program (Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code) for all prospective vendors claiming a preference.

1 (h) After all offers have been received, the department shall
2 compile vendor lists of each bid item listing the low bidder first
3 and each next highest bidder in succession, taking into account
4 the bid preferences allowed under existing law.

5 (i) There shall be a separate bid item list for each size, type, and
6 configuration of offered equipment. The department shall provide
7 CalFire with copies of the completed lists.

8 (j) Any substitution, addition, or deletion of vendor-offered
9 equipment shall be approved by the department prior to rental by
10 the state.

11 (k) CalFire shall inspect vendor equipment, provide safety
12 training for equipment operators, hire vendors from the department
13 lists, provide adequate supervision of hired equipment, and process
14 vendor invoices in a timely manner.

15 (l) When the need for rental equipment arises, CalFire shall
16 contact vendors with an applicable EERA in succession, beginning
17 with the low bidder and continuing on with each next highest
18 bidder.

19 (m) CalFire shall conduct all hiring of emergency equipment
20 vendors at a single centralized location, from which vendors may
21 be subsequently dispatched. If CalFire determines it to be feasible,
22 the hiring pursuant to this subdivision shall be at a emergency
23 command center located in Sacramento. Nothing in this subdivision
24 precludes CalFire from dispatching vendors from another location
25 if CalFire maintains a single point of hire for all vendors.

26 (n) CalFire shall develop and implement an employee code of
27 conduct with the following minimum requirements:

28 (1) CalFire shall develop a zero-tolerance policy for state
29 employees who harass vendors or their personnel.

30 (2) CalFire shall develop a zero-tolerance policy for state
31 employees accepting gratuities from vendors, or exhibiting
32 favoritism towards vendors.